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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,844	02/07/2005	Takashi Kanno	67222-001	4247

7590 11/16/2006
Carlson Gaskey & Olds
Suite 350
400 West Maple Road
Birmingham, MI 48009

EXAMINER

ESTRADA, MICHELLE

ART UNIT	PAPER NUMBER
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2823

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/523,844

Applicant(s)

KANNO ET AL.

Examiner

Michelle Estrada

Art Unit

2823

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 3-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Engdahl et al. (2001/0039168).

Re claim 1, Engdahl et al. disclose at least three rollers rotably provided about axes arranged at parallel intervals wherein each of the at least three rollers has a cylindrical surface which contacts a circumferential surface of a disk-shaped wafer; a rotation drive mechanism that rotates and drives at least one of the rollers; an interval adjustment mechanism capable of adjusting dimensions of the intervals of the rollers; an interval adjustment mechanism capable of adjusting dimensions of the interval rollers; a load control device that controls a load applied from the rollers to the wafer in a radial direction of the wafer when the wafer is clamped between the rollers (See fig. 2); an a load cell; wherein the wafer rotating device supports and rotates the wafer by a frictional force proportional to a contact load between the cylindrical surfaces of the rollers and the circumferential surface of the wafer (See paragraph [0108]).

Initially, and with respect to claims 1 and 6, note that a "product by process" claim is directed to the product per se, no matter how actually is made. See In re Thorpe et al., 227 USPQ 964 (CAFC, 1985) and the related case law cited therein, which makes it clear that it is the final product per se which must be determined in a "product by process" claim, and not the patentability of the process, and that, as here, and old or obvious product produced by a new method is not patentable as a product, whether claimed in "product by process" claims or not. As stated in Thorpe,

...even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. *In re Brown*, 459 F.2d, 531, 535, 173 USPQ 685, 688 (CCPA 1972); *In re Pilkington*, 411 F.2d 1345, 1348, 162 USPQ 145, 147 (CCPA 1969); *Buono v. Yankee Maid Dress Corp.*, 77 F.2d 274, 279, 26 USPQ 57, 61 (2d. Cir. 1935).

Note that Applicant has burden of proof in such cases as the above case law makes clear.

In re claims 1 and 6, it is noted that Engdahl et al. shows all aspects of the memory device according to the instant invention (see fig. 2) and that the new limitations drawn to a method steps are intermediate steps that does not affect the structure of the final device.

Re claim 3, Engdahl et al. disclose the rollers rotatably provided around the axes which are arranged roughly in a vertical direction, and the rollers include a flange section; wherein the flange section a diameter larger than the cylindrical surface of the rollers, and the flange section provided below the cylindrical surface which clamps the

wafer, and the flange section has an inclined surface in which an upper surface of the flange section gradually becomes lower moving towards an outside in a radial direction.

Re claim 4, Engdahl et al. disclose wherein an angle between two of the rollers adjacent to one of the rollers and on both sides of the one of the rollers is smaller than 180° .

Re claim 5, Engdahl et al. disclose wherein pairs of rollers are arranged at three or more locations at intervals in a circumferential direction of the wafer.

Re claim 6, Engdahl et al. disclose a wafer rotating device including at least three rollers rotatably provided about axes arranged at parallel intervals, wherein each of the rollers has a cylindrical surface which contacts a circumferential surface of a disk-shaped wafer; a rotation drive mechanism that rotates and drives at least one of the rollers; an interval adjustment mechanism capable of adjusting dimensions of the intervals of the rollers; an interval adjustment mechanism capable of adjusting dimensions of the interval rollers; a load control device that controls a load applied from the rollers to the wafer in a radial direction of the wafer when the wafer is clamped between the rollers, wherein the wafer rotating device supports and rotates the wafer by a frictional force proportional to a contact load between the cylindrical surfaces of the rollers and the circumferential surface of the wafer; a light source that radiates light onto the circumferential surface of a wafer supported by the wafer rotating device; and a light detector that detects light that has been radiated from the light source which is reflected on the circumferential surface of the wafer (See fig. 2).

Re claims 7 and 8, Engdahl et al. disclose wherein the wafer includes a top surface and a bottom surface, and the wafer is rotated without any contact on the top surface and the bottom surface.

Response to Arguments

Applicant's arguments filed 10/18/06 have been fully considered but they are not persuasive. Applicant arguments rely on the new amendment, which has been addressed above and mainly is a product by process limitations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Estrada whose telephone number is 571-272-1858. The examiner can normally be reached on Monday through Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Smith can be reached on 571-272-1907. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2800.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 2823

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michelle Estrada
Primary Examiner
Art Unit 2823

ME
November 2, 2006